Appl. No. 09/645,279
Amdt. Dated July 30, 2003
Reply to Office Action of May 9, 2003

Docket No. EMPIR-020PUS

REMARKS

The above-identified patent application has been amended and Applicant respectfully requests the Examiner to reconsider and again examine the claims as amended.

Claims 1-19 are pending in the application. Claims 1-19 are rejected. Claims 2, 5-8, 10, 13, and 19 are amended herein.

In accordance with revised amendment practice under 37 C.F.R. §1.121, effective July 30, 2003, a revised set of claims is provided above having markings to show changes made.

The Objections to the Specification

The Examiner objects to use of the term JAVA without proper trademark indication and without accompanying generic terminology. Specification paragraphs are amended above in accordance with the Examiner's objection.

The Objections to the Claims

The Examiner objects to a typographical error in Claim 19. The error is corrected in amended Claim 19.

The Rejection Under 35 U.S.C. §112, Second Paragraph

The Examiner rejects Claim 13 under 35 U.S.C. §112, second paragraph, as containing a trademark/trade name, JAVA™. Claim 13 is amended herein to recite "... said software component comprises a software component which can be interpreted by a web browser." Accordingly, Applicant submits that the rejection of Claim 13 under 35 U.S.C. §112, second paragraph, should be removed.

The Rejections Under 35 U.S.C. §102(e)

The Examiner rejects Claim 1-7, 9, 12-15, and 19 under 35 U.S.C. §102(e) as being anticipated by Guheen et al. (U.S. Patent number 6,473,794).

Applicant submits that Guheen et al. neither describes nor suggests "...*receiving*, by a service provider, at least one *software component* from a customer," as set forth in Claim 1.

The present invention provides the at least one software component, for example, in the form of Enterprise JAVAbeans™ 300a-300c (FIG. 1), also referred to as EJBs, to a service provider, for example the application service provider 320 or FIG. 1. It is stated at page 5, lines 12-13 that "[A]pplication service provider (ASP) 320 provides a service to allow testing of the EJBs 330A...300C." Thus, software developed by a developer (e.g., 320 FIG. 1) is provided to the application service provider 320, which tests the software. It should be understood that the claimed software component is received by the service provider and tested at the service provider. With this particular arrangement, the present invention provides "...easy testing of software objects... ." (page 4, line 9)

In contrast, Guheen et al. describes at column 175, lines 44-45 "COMMERCE-RELATED WEB APPLICATION SERVICES." At column 175, lines 56-59, as pointed out by the Examiner, Guheen et al. provides that "[D]ata relating to needs of a user may also be received for the purpose of outputting a recommendation of the products and services based on the inputted needs." Applicant understands the Guheen et al. invention to receive ordering data, such as that provided by a user to order an item from a web page, not at least one software component as recited in Claim 1 of the present invention. For example, at column 175, lines 49-55, Guheen et al. describes ""[V]arious features are included such as allowing purchase of products and services via a shopping catalog in operation 1500. As an option, a virtual shopping cart may be provided. Further in operations 1502 and 1504 data, i.e., specifications, details, etc., relating to the products and services are displayed along with a comparison between different products and services." Therefore, Applicant concludes that the "[D]ata relating to needs of a user..." described by Guheen et al. at column 175, lines 56-57, is data associated with product needs in a web product ordering scenario.

In view of the above, Applicant submits that Claim 1 is patentable over Guheen et al.

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Claims 2-7, 9, 12-15, and 19 depend from, and thus include the limitations of Claim 1. Thus Applicant submits that Claims 2-7, 9, 12-15, and 19 are allowable over Guheen et al. generally for the reasons discussed above in conjunction with Claim 1.

Applicant has amended Claims 5-7 herein to specify "...said step of receiving *the at least one software component... .*" It will be readily understood from the claim structure that "said step of receiving" corresponds to receiving at least one software component as in Claim 1. Therefore, the amendment to Claims 5-8 is made without further limiting the claims.

It is submitted that Claims 5-7 are further patentably distinct since Guheen et al. neither describes nor suggests "...said step of receiving *the at least one software component...* ," as set forth in Claims 5-7. In contrast, as described above, the invention of Guheen et al. is directed toward web pages, not software components as suggested by the Examiner.

Claim 9 depends from and thus includes the limitations of Claim 8. Claim 8 is not rejected by the Examiner under 35 U.S.C. §102(e) in view of Guheen et al. Therefore, Applicant submits that Claim 9 is further patentably distinct over Guheen et al. Applicant has also amended claim 8 to recite "...said step of receiving *the at least one software component... .*" Therefore, Applicant submits that Claim 9 is further patentably distinct since Guheen et al. neither describes nor suggests "...said step of receiving *the at least one software component...* ," as required by Claim 9.

It is submitted that Claim 12 is further patentably distinct since Guheen et al. neither describes nor suggests "... at least a portion of the results from said *load testing* are provided in a graphical format... ," as set forth in Claim 12. In contrast, the Examiner points out that Guheen, at column 7, lines 65-67 describes "...pictorial representation of an existing network framework.... ," which is not associated with the claimed load testing.

In view of the above, Applicant submits that the rejection of Claim 1-7, 9, 12-15, and 19 under 35 U.S.C. §102(e) should be removed.

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The Rejections Under 35 U.S.C. §103(a)

Claims 8, 10, 11, 16, and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Guheen et al. in view of Gross et al. (US patent number 5,371,883). The Examiner asserts that Guheen discloses a system for testing components of web-based frameworks. The Examiner recognizes that Guheen fails to disclose "...details on receiving directions regarding the type of testing to be done... ," and relies on Gross et al. to teach the providing details regarding testing in a networked environment. The Examiner concludes that "...it would have been obvious, to one of ordinary skill in the art...to have modified Guheen's invention to test components of a web based framework by including Gross' invention... ," for providing detailed directions for testing.

Applicant submits that Guheen et al., whether taken alone or in combination with Gross et al., neither describes nor suggests "..._receiving_, by a service provider, at least one _software component_ from a customer," as set forth in Claim 1.

The present invention provides the at least one _software component_, for example, in the form of JAVAbeans™ 300a-300c (FIG. 1) to a service provider, for example the application service provider 320 or FIG. 1. It is stated at page 5, lines 12-13 that "[A]pplication service provider (ASP) 320 provides a service to allow testing of the EJBs 330A...300C." Thus, software developed by a developer (e.g., 320 FIG. 1) is provided to the application service provider 320, which tests the software. With this particular arrangement, the present invention provides "...easy testing of software objects... ." (page 4, line 9)

In contrast, Guheen et al. describes at column 175, lines 44-45 "COMMERCE-RELATED WEB APPLICATION SERVICES." At column 175, lines 56-59, as pointed out by the Examiner, Guheen et al. provides "that "[D]ata relating to needs of a user may also be received for the purpose of outputting a recommendation of the products and services based on the inputted needs." Applicant understands the Guheen et al. invention to receive ordering data, such as that provided by a user to order an item from a web page, not at least one _software component_ as recited in Claim 1 of the present invention. At column 175, lines 49-55, Guheen et al. describes "[V]arious features are included such as allowing purchase of products and services via a shopping catalog in operation 1500. As an option, a virtual shopping cart may be provided.

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Further in operations 1502 and 1504 data, i.e., specifications, details, etc., relating to the products and services are displayed along with a comparison between different products and services." Applicant concludes that the "[D]ata relating to needs of a user..." described by Guheen et al. at column 175, lines 56-57, is data associated with product needs in a web product ordering scenario. Therefore, Guyheen et al. does not describe or suggest receiving *at least one software component* by a service provider as required by Claim 1 of the present invention.

Gross et al. fails to overcome the above deficiency in Guheen et al. Gross describes a software testing environment in which a control program residing in a control machine forwards instructions to a test program residing in a test machine. The instructions are executed on the test machine and results are reported back to the control machine. A user can specify "values" column 4, lines 46-49. The "values" of Gross are apparently "...values that must be used in any test case... ." (column 4, lines 21-22) Applicant submits that Gross et al. does not describe or suggest receiving *at least one software component* by a service provider as required by Claim 1 of the present invention.

Furthermore, Applicant submits that if the invention of Guheen et al. were to be combined with the invention of Gross et al. as suggested by the Examiner, the result would not be the claimed invention. The result of such a combination may be a web site testing arrangement (as in Guheen et al.) in which a user can specify values used in a test case (as in Gross et al.). The combination would not provide the present invention, testing of software components provided by a testing service.

In view of the above, Applicant submits that Claim 1 is patentable over Guheen et al. and Gross et al.

Claims 8, 10, 11, 16, and 17 depend from, and thus include the limitations of Claim 1. Thus, Applicant submits that Claims 8, 10, 11, 16, and 17 are allowable over Guheen et al. and Gross et al. generally for the reasons discussed above in conjunction with Claim 1.

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It is submitted that Claim 8 is further patentably distinct over Guheen et al. and Gross et al, whether taken alone or in combination, since the cited references neither describe nor suggest "...said step of receiving the *at least one software component* further comprises the step of receiving directions regarding the type of testing to be done on said *software component*," as set forth in Claim 8.

It is submitted that Claim 10 is further patentably distinct over Guheen et al. and Gross et al, whether taken alone or in combination, since the cited references neither describe nor suggest "... said step of receiving the *at least one software component* further comprises the step of receiving directions regarding how to process results from said testing," as set forth in Claim 10.

It is submitted that Claim 16 is further patentably distinct over Guheen et al. and Gross et al, whether taken alone or in combination, since the cited references neither describe nor suggest a "...step of providing further comprises the step of providing access to multiple *containers* for testing the performance of said *software component* in different ones of said multiple *containers*," as set forth in Claim 16. As described at page 2, line 21, "...an application server...is more generally referred to as a 'container'." Also, as described above, neither Guheen et al. nor Gross et al. describe testing a software component.

It is submitted that Claim 17 is further patentably distinct over Guheen et al. and Gross et al, whether taken alone or in combination, since the cited references neither describe nor suggest "... said step of providing further comprises the step of determining the parameters of the data sets *to test a software component* by examining the interface of each method in the software component and determining what inputs and outputs must be specified for that *software component*," as set forth in Claim 17.

In view of the above, Applicant submits that the rejection of Claims 8, 10, 11, 16, and 17 are rejected under 35 U.S.C. §103(a) over Guheen et al. in view of Gross et al. should be removed.

Claim 18 is rejected under 35 U.S.C. §103(a) as being unpatentable over Guheen et al. in view of Swoboda (US patent number 5,841,670). The Examiner asserts that Guheen et al. discloses a system for testing components of web-based frameworks. The Examiner recognizes that Guheen et al. fails to disclose a graphical user interface to test the components, and relies on Swoboda to teach the graphical user interface to test components. The Examiner concludes that "...it would have been obvious, to one of ordinary skill in the art...to have modified Guheen's invention to test components of a web based framework by including emulation using a graphical user interface [of Swoboda]."

Applicant submits that Guheen et al., whether taken alone or in combination with Swoboda, neither describes nor suggests "..._receiving_, by a service provider, at least one _software component_ from a customer," as set forth in Claim 1.

The present invention provides the at least one software component, for example, in the form of JAVAbeans™ 300a-300c (FIG. 1) to a service provider, for example the application service provider 320 or FIG. 1. It is stated at page 5, lines 12-13 that "[A]pplication service provider (ASP) 320 provides a service to allow testing of the EJBs 330A...300C." Thus, software developed by a developer (e.g., 320 FIG. 1) is provided to the application service provider 320, which tests the software. With this particular arrangement, the present invention provides "...easy testing of software objects... ." (page 4, line 9)

In contrast, Guheen et al. describes at column 175, lines 44-45 "COMMERCE-RELATED WEB APPLICATION SERVICES." At column 175, lines 56-59, as pointed out by the Examiner, Guheen et al. provides that "[D]ata relating to needs of a user may also be received for the purpose of outputting a recommendation of the products and services based on the inputted needs." Applicant understands the Guheen et al. invention to receive ordering data, such as that provided by a user to order an item from a web page, not at least one software component as recited in Claim 1 of the present invention. At column 175, lines 49-55, Guheen et al. describes ""[V]arious features are included such as allowing purchase of products and services via a shopping catalog in operation 1500. As an option, a virtual shopping cart may be provided. Further in operations 1502 and 1504 data, i.e., specifications, details, etc., relating to

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the products and services are displayed along with a comparison between different products and services. Applicant concludes that the "[D]ata relating to needs of a user..." described by Guheen et al. at column 175, lines 56-57, is data associated with product needs in a web product ordering scenario. Therefore, Applicant submits that Guheen et al. does not describe or suggest receiving *at least one software component* by a service provider as required by Claim 1 of the present invention.

Swoboda fails to overcome the above deficiency in Guheen et al. Swoboda merely describes emulation devices and techniques used in conjunction with distributed systems. The emulation device distributes common control information to each of a plurality of clock domains. (abstract) Applicant submits that Swoboda does not describe or suggest receiving *at least one software component* by a service provider as required by Claim 1 of the present invention.

Furthermore, Applicant submits that if the invention of Guheen et al. were to be combined with the invention of Swoboda as suggested by the Examiner, the result would not be the claimed invention. The result of such a combination may be a web site testing arrangement (as in Guheen et al.) having a graphical user interface (as in Swoboda). The combination would not provide the present invention, testing of software components provided by a testing service.

In view of the above, Applicant submits that Claim 1 is patentable over Guheen et al. and Swoboda.

Claim 18 depends from, and thus includes the limitations of Claim 1. Thus, Applicant submits that Claim 18 is allowable over Guheen et al. and Swoboda generally for the reasons discussed above in conjunction with Claim 1.

It is submitted that Claim 18 is further patentably distinct over Guheen et al. and Swoboda, whether taken alone or in combination, since the cited references neither describe nor suggest "...said step of testing further comprises the step of *testing program components* typically used through a graphical user interface by building test drivers for the components and testing without the graphical user interface," as set forth in Claim 18.

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In view of the above, Applicant submits that the rejection of Claim 18 under 35 U.S.C. §103(a) over Guheen et al. in view of Swoboda should be removed.

In view of the above amendment and remarks, Applicant submits that Claims 1-19 and the entire case are in condition for allowance and should be sent to issue and such action is respectfully requested.

If the Examiner has any questions regarding this Amendment or this application, he or she is respectfully invited to telephone the undersigning attorney.

The Assistant Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845.

Respectfully submitted,

Dated: _July 30, 2003_

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